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New-Pork Daily Tribune

LAW INTELLIGENCE. HNITED STATES CIRCUIT COURT-SOUTHERN DISTRIC

OF NEW YORK.—Before Justice NELSON.
THE GREAT SEWING-MACHINE CASES. Orlando B. Potter and Nathaniel Wheeler, in equity, agt. James G. Wilson and Alexander C. Stockmar.

Same, in equity, agt George B. Stock and others.

Same, in equity, agt. John B. Gibbs.

The following are decisions rendered on a final hear-

ing on pleadings and proofs in five sewing-machine cases which were argued in June last, by George Gifford and E. W. Steughton for the complainant, and by George G. Sickles and C. A. Seward for the defendants, before Justice Nelson, Judge Smalley sitting with him, at Cooperstown, New-York. The arguments occupied about two weeks, and the cases have since been held under advisement by the Court. The testimony was very voluminous, amounting to nearly two

thousand pages in print. The cylinions of the Court contain all necessary parsiculars to enable the subject to be understood. The decisions sustain the validity of the A. B. Wilson Feed Patent and order injunctions to issue:

Nelson, C. J.—These suits are founded on two resisted patents to A. B. Wilson, for improvements in the feed motion of a sewing machine. The original patent for the invention was granted 14th November, 1856. It was surrendered, and two re issues, numbered 8th, 3tf, thereon, both bearing date 22d January, 1958. 345 was subsequently surrendered, and re-issued Oh December, 1856, in numbered 4th.

Previous to the invention of Wilson, as claimed by the plaintiffs, the material to be sewed had been advanced under the needle, or sewing apparatus, by the hand of the operator, or fixed permanently to a frame, called, in technical language, a basterplate, which was advanced with the cloth by a regular progressive motion, to the needle, through the seemry of solitable machinery. By the former process, feeding by land, the obthic could be sewed, but there was no security for regularity of witch except the care and skill of the operator. By the latter, the regularity of stitch was attained, but from the permanent attachment of the doch to the baster plate, a seam, with corvoires and argies, at the will of the operator, as the sewing progressed, could not be formed. The object of the improvement in question was to remedy these defects, by causing the cloth to be moved automatically under the needle, and the device so arranged as to constitudly under the needle, and the device so arranged as to constitudly under the needle, and the device so arranged as to sometically under the needle, and the device so arranged as to constituding on the formed. The object of the improvement in question was to remedy these defects, by causing the cloth to be moved automatically under the needle, and the device so arranged as to constitute of seams of my curvature, and at the same time secure should be constituted and the device of the machine.

The proofs show that the legal title to the patents, and exclusive right to them in the State of New York, are in the complaints; and in a court of law they are the only parties proper to bring the suits.

It is urged, however, that in equity all parties must be joined who are interested in the subject-matter of the literation.

The proofs show that the legal title to the patents, and exclusive right to them in the State of New-York, are in the compationer; and in a control law they are the only parties proper to bring the suite.

It is urged, however, that in equity all parties must be joined who are interested in the subject-matter of the litigation.

In one sense, according to the testimony of Potter, these two comparies may be said to be interested, but whether so or not, as to require them to be joined in the said, is for the such as the control of the such as the such as the such as the tests to require them to be joined in the said, as the test to the such as the

dvance it. The novelty of this improvement is disputed by the defend-

The novelty of this improvement is disputed by the desirable.

The proof carries back this invention by Wilson, that is, his conception of the idea and embeddment into a mod 4, to April or May, 1850; and it was introduced into a working machine as early as 1852.

The enty improvement of the kind seriously claimed by the defence to be earlier than Wilson's is that of Leander W. Lungdon, We have had occasion to examine the cisius of this person, generally as to the date of his invention of the feed motion in several general states, and express our opinion on the subject.

In respect to this particular improvement, it is quite clear, upon the proofs, that Langdon never embedded it into a machine

UNITED STATES CIRCUIT COURT—Avo. 18.

Before Justice Nexaon.

Alexander Smith and others aat A. & E. Higgins and others.

This was a writ for an alleged infringement of a patent granted to Alexander Smith, one of the plaintiffs, June 13, 1850, and reissued May 11, 1852, for an apparatus for particiologing yarn, to make tapestry, Ingrain carpeting.

The case was first tried by a Jory in 1850, and a verdict found for the defendants. A new trial was afterwards granted, and another trial had in November, 1858, and the Jury disagreed. On the case coming up for another trial the whoie case, both law and fact, was submitted to Judge Nelson, and argued by Charles M. Keller eq., for the plaintiffs, and by George Gifford, eaq, for the defendants.

The Judge has decided the case in favor of the defendants, on

the matter.

COURT OF COMMON PLEAS—CHAMBERS—Aug. 18.—Before Judge Brady.

Virgil Hillyer, Assignee, &c., sat Ann Eliza Dean.

This was a motion for a new trial, and the preliminary objection was taken that it was an "enumerated motion," and should go on the calendar. The Court so held, and ordered a note of issue to be filed for the October term.

Wm. T. Van Riper for plaintiff; Sammel Williams opposed.

UNITED STATES COMMISSIONERS' OFFICE—Aug. 18.

Before Commissioner Betts.

POST-OFFICE DEFALCATION,
To United States agt. Wm. Carpenter.

This defendant is the son of the Postmaster at Mount Cisco, Westchesser County, and was arrested several days sloce, charsed with taking letters and embeszling the funds of the office. After several examinations before the Commissioner, the secused was finally discharged this morning.

affairs of the Wall-street Fire Insurance Company, located in the City of New-York, I found that the assets of said Company were insufficient to justify its conhave communicated this fact to the Attorney-General for his action in the premises; and deeming it for the interest of the public, that the result of my investigafor publication. Very respectfully, yours,

WILLIAM BARNES, Superintendent.

ringes."
B. Sailsbury, Vice-President, and John K. Oakley, Secreta-also car find and testified that the capital exhibited by them the seld Commissiones, so in the 18th day of October, 183, a capital of seid Company "was and is bona fide the property

he sign of said Company "was and is bond has an experience of said Company."

said Company."

In the 16th day of October, 1858, a certified copy of the character, &c., was sent to the Company, upon the filing of which in County Clerk's Office of the city and county of New York a Company assumed to exercise the rights, privileges, and mehices of a Fire Insurance Corporation, with a capital of the county of the company assumed to exercise the rights, privileges, and mehices of a Fire Insurance Corporation, with a capital of

the Company assumed to electrics the rights, with a capital of #200,000. The capital of the Company as fixed by the third article of its charter, was \$150,000, and this amount could not be legally increased except by procuing a Peclevation of the Directors, the consent of three-fourths in amount of the stockholders, filing an amended charter, and taking the nead proceedings, which are similar to those required on the original organization of a Company. The Commissioners, however, improperly reported the capital at the amount of \$200,000, consisting of cash and bonds and mortgages. They do not expressly cartify that the bonds and mortgages are first liens, but it is undoubtedly a fair presumption that they intended to certify the whole \$200,000, as consisting of legal and proper capital of the Company (except so much of the same as may be necessary

Article V. of the charter provides that the "whole capital of the Company (except so much of the same as may be necessary for contingent current expenses) shall be invosted in bond and mortgage upor unincumiered real estate in the State of New-York, worth at least thirty-three and one-third per cent more than the sum loaned thereon, or &c." The words "thirty-three and one-third" (which are improperly inserted in panell) are inconsistent with the laws of this State, which only allow investments on bond and mortgage where the premises are worth Afty per cent more than the amount loaned thereon.

Notwithstanding the limitation of the chartered capital of the Company at \$150,000 and its irregular and illegal organization on the basis of a ceptial of \$200,000, at a special meeting of the Board of Directure bell at their office on the 24th day of November, 1886 (present, William Jaress Boggs, President, and Directors Salisbury, Vandewater, Crawford, Thomas, Angell, Meserole, Weeks, Oakley, and William Boggs), the following resolution was adopted:

Elegant of the Board be und

role. Weeks, Oakley, and William Boggs), the following resolution was adopted:

"Resolved, That the Finance Committee of this Board be and they are hereby authorized and empowered to increase the capital stock of this Company to the amount not to exceed \$250,000 or to exchange the mortgages or securities of this Company, as they may deem expedient.

It appears from a resolution subsequently passed that this summary way of increasing capital was actually exercised, and that stock was issued over and above \$260,000. At the regular monthly meeting of the Beard of Directors, held at the office of the Company on the 12th day of January, 1859, the following resolution was passed:

On the this controller as to the conservation of which the following is a copy:
of which the following is a copy:
"To the Controller of the State of New-York.
"In obedience to your instructions, we have fully investigated."

ny to raise in cash, \$50, within timy days rows and the State.

I do not find any order of the Controller modifying his requisition on the Company for the payment of \$50,000; but it was probably attend tifter verbally or otherwise, as the second Report of the Commissioners, with the testimony of Richard L. Wyckoff, acting President, and \$B\$, Stiles, Secretary, as to the payment of the sum of \$23,000 (instead of \$50,000) by the stocknolders, on the requisition of the Controller, is on file in this Department.

The following is a copy of said report which does not appear to have been made under oath:

"To the Controller of the State of New-York,

"Sire: In obedience to your order and appointment, we have completed our examination of the Wall-street Fire Insurance Company. In our former report to you we have reported the available assets of the Company at \$117,000. The Securities held by the Company are deemed ample and astisactory at that amount, and we are still of the opinion that no securities held by Insurance Company at the amount reported. To-day it has been satisfactorily proved to us that it e dericency occasioned by our report, has been supplied by the payment of assessments imposed on the stock of the Company and that the Company has in cash absolutely belonging to it, paid in by Stockholders under the assessment, the amount of \$35,000. The Amount required by the Statute is now full, which entitled the Company to resume its basiness. and being free from debt we believe it to be as cound and safe as any Company in this city.—Respectfully yours,

Respectfully yours,

"L. S. CHATFIELD,

"D. B. BRITTON,

"JOHN RAYMOND.

Commissioners."

When the Controller's requisition was made upon the Conpany, various resolutions were passed by the Board of Directors to compel payment by the stockholders; and it was only after repeated efforts and extraordinary exertions that the money was ruled. The statute provides that in cases where the stockholders refuse or neglect to pay up their proportion, the Company may, under the direction of the Controller, forfeit their proportionate share of stock, and Issue new certificates for the amount of the deficient capital, which in this case was finally fixed at \$33,000, but the officers of the Wall-street Fire Insurance Company gave their stockholders the option to pay twenty-five percent in cash on their stock, or forfeit fifty percent; and in this manner, and by the threat of taking proceedings to dissolve the Company and close up its sflatrs, the Directors irregularly compelled the forfeiture of a large amount of stock, thus reducing according to the testimony of the Secretary, the outstanding new stock to \$147,620, and leaving only \$700 of the old stock unsurrendered.

I find from the testimony that the present capital and assets of

rendered.

I find from the testimony that the present capital and assets of the Company consist of the following items:

Bonns and Montgague on lots at "Nassan Heights," near Neutona, Queens County, mostly 2531/0 feet each:

No. 1. Mortgage of S. Thomas Curran on thirty two

No. XI. Bend and mortgage of Harris Wilson on one bundred and thirty-two lots.

No. XVI. Bound and mortgage of Harris Wilson on one bundred and thirty-two lots.

No. XVI. Bound and mortgage of Wallace E. Caldwell for #11 060, originally covering all of the above lots, and also all of the "Brettonniese" farm of about rightly acres in the town of Newtown, satigned to the Company Dec. 39, 13:28.

Aggregate amount of bonds and mortgage of the Town of Brecktoeth, in Cuttorranges County:

No. XV. Bond and anortgage of Frederick V. Taft on lots Nos. II and 25. T. 2. R. 7, and lot No. 23. T. 2. R. 2, Holland Land Co. Survey, containing one thousand and lity two acres of land.

No. XVI. Bond and mortgage of Martin H. Beebe for #10.727 on lot No. 24. T. 1, R. 7, and lot No. 33, T. 2. R. 7, Holland Land Co. Survey, containing of acres less stock not delivered, \$8,100).

No. XVII. Bond and mortgage of Harry O'Grady on lot No. 33. T. 1. R. 7, Holland Co. Survey, containing 569-340 acres.

No. XVIII. The same on lot No. 42, T. 1, R. 7, containing 569-340 acres.

No. XVIII. The same on lot No. 41, T. 1, R. 7, containing 569-340 acres.

No. XVII. The same on lot No. 41, T. 1, R. 7, containing 569-340 acres.

No. XVIII. The same on lot No. 41, T. 1, R. 7, containing 569-340 acres. taining 360 9-10 acres.

No. XIX. The same on lot No. 42, T. I, R. 7, containing 396 7-10 acres.

No. XX. Bond and mortgage of Michael Ryan on lot No. 26, T. 2, R. 2, Hollard Land Co. Survey, containing 467 acres.

No. XXI. The same on lot No. 20, T. 2, R. 7, containing 857 acres.

ing 857 seres.

No. XXII. Partial assignment of bonds and mortgages of E. J. Baldwin and Jas. A. Appleby, covering the same and other premises in the town of Backtooth, and being a prior lien to the above mortgages, but to be enforced only as against the lands covered by the above mortgages.

spinition the everage value of the lots mortgaged to the Company will not exceed \$35 seeds.

The bonds of Wm Danforth, Emma M. Sitzer, and John Redmond are probably uncollectable.

On the organization of the Company, its capital seems to have been made up in part of \$75,000 of mortgages executed by S. Thomas Curran and William Danforth, on property at Samel Hellows.

E. C. Adawell mortgage for \$11,000, covering the whole farm, was a prior lien, however (releasable on the payment of \$25 per lot) to all the mortgage for \$11,000, covering the whole farm, was a prior lien, however (releasable on the payment of \$45 per lot) to all the mortgage of of interest being unpaid thereon at that date. The Company purchased the mortgage; the mort \$10,000 or principal and \$350 of interest being unpaid thereon at that date. The Company purchased the mortgage; the whole samon date of the mortgages owned by the Company. This claim would probably be rejected by the Court on foreclosure, and an equitable apportionment made of the amount due on the Caldwell mortgage, over the whole farm.

Mr. Sities, the Secretary, testified that William A. Darling and Gibbors I. Keity had purchased the property at "Massau Helphrs" and in Catteraugus Country, covered by the mortgages over lot of the rest on the mortgage on the 2th day of December, 1829, amounting to the sum of \$28,000 34.

No. XV. Bond and mortgage of Frederick V. Tanf. for \$17,000. This mortgage covers lots Nos. Il and \$25,000 34.

No. XV. Bond and mortgage of Frederick V. Tanf. for \$17,000. This mortgage covers lots Nos. Il and \$25,000 34.

No. XI is the second township and second range; it was probably interest on the mortgage or lot No. 23 in the second township and second frange; it was probably interest on the mortgage of the country of the day of the country of the payment of the count

appraised by Messrs. Beecher and Jenks at \$2 per acre, making \$674.

This mortgage is rejected, no title to the mortgaged premises having been shown in the mortgager.

No. XXI. Bond and mortgager.

No. XXI. Bond and mortgage of Michael Ryan for \$6,000; covers let No. 20, three hundred and fifty-seven acres. This lot, containing considerable pine timber, is valued by the said appraisers at \$6 per sers, making \$2,142.

Nos. XXIII, and XXIV. The Company commenced proceedings by action in January last to foreclose the John Loud mortgages to Mary Bowne and to the Company, claiming the sum of \$3,000 ef principal as being unpaid on the Mary Bowne mortgage, and the sum of \$14,000 as being unpaid on the mortgage to the Com-

claimed to be owned by the Company on the list day of December, 1859, and which were included in the last Annual Statement of the Company.]

5 Schedule B is a certificate by the Town Clerk of the town of Newtown as to the valuation of lots at "Nessau Heights" in the

Newtown as to the values of the art Assaul negate in the sassement roll of that town.

Schedule C is a certified copy of the order of the Supreme Court confirming the reports of the Commissioners appraising the premises of Harris Wilson, taken by the New-York and Jamaies Railroad Company.

Schedule D is a like certified copy order in the case of Henry

community the reports of the Commissioners appraising the premises of Harris Whison, taken by the New-York and Jamales Railrod Company.

Schedule D is a like certified copy order in the case of Henry Fleury.

Schedule E contains a list of the stockholders of the Company with the number of shares owned by each stockholder.

Schedule F contains several bills for taxes on Brocklyn property mortgaged to the Company, with the Assessor's valuation of the premises.

Schedule G is a description of all the honds and mortgages owned and claimed to be owned by the Company.

Schedule H is a certificate of the Company.

Schedule H is a certificate of the Town Clerk of White Plains, Westchester County as to the assessed value of the prunises covered by mortgage of Robert Charles Johnson, No. XXXII.

Schedule I is the Appraisal and description of the Cattavagus County lands, made under each by Moses Beecher and Lemnel S. Jenks, and approved by D. O. Blingham, eaq. Surveyor.

Schedule J is a map of "Nassan Heights," near the village of Newtown, Queens County.

Annexed heroto will be found the testimoup of B. F. Stiles, eaq., Secretary of the Company, taken by me on this examination.

It appears from my investigations that the Assets of the Company are insufficient to justify its continuance in Dusiness.

On an examination of the condition and affain of a Fire Lurance Company by the Sugerintendent, or a Commissioner appointed by him for that purpose, the statute provides that the Soperintendent "may direct the officer thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition or he shall communicate the fact to the Attorney General, whose day it shall then become to apply to the Suprem Court for an order requiring them to show cause why the business of such Company shall required as guararty to the public, to entitle its stockholders to pay in the amount of such deficiency within such periods as he may designate in such required to a company in the Comp

TO ARRIVE. Glasgow..... North America. Arabia City of Baltim Vanderbilt